



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R01-OAR-2022-0515; FRL-10220-02-R1]

#### **Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Maine; 111(d)/129 Revised State Plan for Large Municipal Waste Combustors and State Plan for Small Municipal Waste Combustors**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the Clean Air Act (CAA) State Plan for Municipal Waste Combustor (MWC) units submitted by the Maine Department of Environmental Protection (Maine DEP). This submission includes revisions to Maine's previously approved State Plan for existing Large MWCs in response to amended emission guidelines (EGs) for Large MWCs. This submission also includes a State Plan for existing Small MWCs. Maine DEP's State Plans for Large and Small MWCs implement and enforce provisions at least as protective as the EGs applicable to these subcategories of solid waste incinerators. This action is being taken in accordance with the CAA.

**DATES:** This rule is effective on **[Insert date 30 days after date of publication in the Federal Register]**. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2022-0515. All documents in the docket are listed on the

<https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at

*https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Shutsu Wong, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square – Suite 100, (Mail Code 05-2), Boston, MA 02109-3912, tel. 617-918-1078, e-mail [wong.shutsu@epa.gov](mailto:wong.shutsu@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

#### **Table of Contents**

- I. Background and Purpose
- II. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

#### **I. Background and Purpose**

On September 26, 2022 (87 FR 58294), EPA published a Notice of Proposed Rulemaking (NPRM) for the State of Maine.

The NPRM proposed approval of the Clean Air Act State Plan revisions for existing Large MWCs and new State Plan for existing Small MWCs submitted by the Maine DEP on December 24, 2019. Maine DEP revised the provisions of 06-096 Code of Maine Regulations (CMR) Chapter 121, entitled “Emission Limitations and Emission Testing of Resource Recovery Facilities,” and submitted the State Plan in response to amended EGs for Large MWCs and

federal standards for existing Small MWCs.<sup>1</sup> Maine DEP's State Plan is for implementing and enforcing provisions at least as protective as the EGs applicable to existing Large and Small MWCs.

Other specific requirements under sections 111(d) and 129 of the Clean Air Act, and the rationale for EPA's proposed action, are explained in the NPRM and will not be restated here. Only one comment was received on the NPRM which was in support of the proposed action. This comment is available within the docket for this action.

## **II. Final Action**

EPA is approving Maine DEP's revised State Plan for existing Large MWCs and State Plan for existing Small MWCs.

## **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the 06-096 CMR, Chapter 121, entitled "Emission Limitations and Emission Testing of Resource Recovery Facilities," effective on September 14, 2019, excluding the provisions for new Large MWCs covered in 06-096 CMR Chapter 121, Section 6., entitled "Large Municipal Waste Combustor Units Subject to 40 CFR Part 60, Subpart Eb." This regulation being incorporated by reference revises Maine's previously approved State Plan for existing Large MWCs in response to amended EGs for Large MWCs, and includes a State Plan for existing Small MWCs. The EPA has made, and will continue to make, these documents generally available at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

They are also available at: <https://www.regulations.gov>. This incorporation by reference has

<sup>1</sup> 71 FR 27324 Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors and 68 FR 5158 Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999.

been approved by the Office of the Federal Register and the plan is federally enforceable under the CAA as of the effective date of this final rulemaking.

#### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See Clean Air Act sections 111(d) and 129(b); 40 CFR part 60, subparts B and Cb; and 40 CFR part 62, subpart A; and 40 CFR 62.04. Thus, in reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the State Plan is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **Insert date 60 days after date of publication in the Federal Register**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of

judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).

**List of Subjects in 40 CFR Part 62**

Environmental protection, Air pollution control, Administrative practice and procedure, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: March 6, 2023.

David Cash,  
Regional Administrator,  
EPA Region 1.

Part 62 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 62 - APPROVAL AND PROMULGATION OF STATE PLAN FOR DESIGNATED FACILITIES AND POLLUTANTS**

1. The authority citation for part 62 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart U - Maine**

2. Amend Section 62.4845 by revising paragraph (b)(4) and adding paragraphs (b)(7) and (8) and (d) to read as follows:

**§ 62.4845**

\* \* \* \* \*

(b)

\* \* \* \* \*

(4) Control of metals, acid gases, organic compounds and nitrogen oxide emissions from existing large municipal waste combustors with the capacity to combust greater than 250 tons per day of municipal solid waste, submitted on April 15, 1998.

\* \* \* \* \*

(7) A revision to the plan controlling metals, acid gases, organic compounds and nitrogen oxide emissions from large municipal waste combustors with the capacity to combust greater than 250 tons per day of municipal solid waste, submitted on December 24, 2019 (incorporated by reference, see paragraph (d)(1) of this section).

(8) Control of metals, acid gases, organic compounds and nitrogen oxide emissions from existing small municipal waste combustors with the capacity to combust less than or equal to 250 tons per day of municipal solid waste, submitted on December 24, 2019 (incorporated by reference, see paragraph (d)(1) of this section).

\* \* \* \* \*

(d) *Incorporation by reference.* The material listed in this paragraph (d) is incorporated by reference in this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the EPA and at the National Archives and Records Administration (NARA). Contact EPA at: EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square-Suite 100, Boston, MA, 617-918-1111. . For information on the availability of this material at NARA, visit: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html) or email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov). The material may be obtained from: State of Maine, Maine Department of Environmental Protection, 17 State House Station, 28 Tyson Drive, Augusta, Maine 04333, 207-287-7688, [www.maine.gov/dep/](http://www.maine.gov/dep/):

(1) 06-096 Code of Maine Regulations: Department of Environmental Protection, Chapter 121, “Emission Limitations and Emission Testing of Resource Recovery Facilities,” excluding Section 6 “Large Municipal Waste Combustor Units Subject to 40 CFR part 60, Subpart Eb,” amended September 14, 2019.

(2) [Reserved]

3. Section 62.4975 is revised to read as follows:

**§ 62.4975 Identification of sources.**

- (a) Penobscot Energy Recovery Company, Orrington, Maine
- (b) [Reserved]
- (c) ecomaine, Portland, Maine

4. Add an undesignated center heading and § 62.5000 to subpart U to read as follows:

*Metals, Acid Gases, Organic Compounds and Nitrogen Oxide Emissions from Existing Municipal Waste Combustors with the Capacity to Combust Less Than or Equal to 250 Tons Per Day of Municipal Solid Waste*

**§ 62.5000 Identification of sources.**

- (a) Mid-Maine Waste Action Corporation, Auburn, Maine



(b) [Reserved]

[FR Doc. 2023-05020 Filed: 3/13/2023 8:45 am; Publication Date: 3/14/2023]